

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 96-174

June 24, 1996

TRESCOM USA, INC.
Application for Approval of
Petition of a Certificate of Public
Convenience and Necessity to
Operate as a Reseller

ORDER: GRANTING AUTHORITY TO
PROVIDE SERVICE AND WAIVER FROM
PAYMENT OF ACCESS CHARGES; AND
APPROVING SCHEDULE OF RATES,
TERMS AND CONDITIONS

WELCH, Chairman; NUGENT and HUNT, Commissioners

By this Order, the Commission grants TresCom USA, Inc. (the Company or "TresCom") the authority to provide interexchange service throughout the state of Maine and approves the Company's Terms and Conditions and Rate Schedules as filed on April 16, 1996. In addition, the Commission grants the Company's request to waive certain sections of Chapter 280, Provision of Competitive Telecommunications Services, and on its own motion, grants waivers to Chapter 210, Uniform System of Accounts, and 35-A M.R.S.A. §§ 707 and 708.

I. Approval of Application to Serve

On April 16, 1996, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, TresCom applied for authority to operate in Maine under the Commission's expedited process. We have reviewed the Company's petition, Terms and Conditions, and Rate Schedules, and find that they comply with Maine law and the Commission's rules. Our review of TresCom's responses to questions about the Company's finances and experience in other states, indicate that it is not necessary for the Commission to open a formal investigation before granting the Company permission to operate in Maine.

In general, the Commission believes that a competitive telecommunications market results in services and rates that benefit the public. The Commission did not compare TresCom's rates to those of carriers whose rates are subject to active regulation. We believe that the acceptability of TresCom's services and rates in the market place provides an adequate test of the reasonableness of the Company's rates.

II. Waiver of Payment of Access Charges

Our approval of TresCom's application to provide interexchange service in Maine is conditioned on the payment of access charges to New England Telephone Company as access administrator. Because the Commission's Chapter 280 requires each interexchange carrier to pay applicable access charges, the chapter ordinarily requires both an underlying

carrier and a switchless reseller¹ to pay access charges for the same call. Switchless resellers may avoid double payment of access by asking the Commission to waive certain sections of Chapter 280.

The Commission has determined that Trescom is a switchless reseller. Using the Commission's standard Waiver Request form (Attachment 1), the Company has asked the Commission to waive certain provisions of Chapter 280, subject to the conditions and requirements described on the Waiver Request form. We find that the granting of the waiver upon these conditions is reasonable and grant the waiver subject to the stated conditions.

III. Reporting Requirements

Although Trescom has not requested a waiver from the requirements of the Commission's Chapter 210, which governs telephone utility accounting, or from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests, the Commission has the authority to grant a waiver on its own motion. Because Xtracom's rates and operations are subject to market forces, we see no need to subject the Company to these regulations. However, as required by Maine law, Trescom must report its annual intrastate gross operating revenues, its annual intrastate minutes of use, and the annual amount paid to each underlying carrier for resold services for the purpose of determining regulatory assessments for underlying carriers.²

It is

O R D E R E D

1. That Trescom USA, Inc.'s request per 35-A M.R.S.A. §§ 2102 and 2105, to provide interexchange service throughout the state of Maine, is granted;

¹ For purposes of applying the access charge waiver, we define switchless resellers as entities which do not own, lease, or control any switching facilities, or private lines, that it will use to provide telecommunication services in Maine. A reseller who owns a switch in another state, and plans to use that switch to carry Maine traffic, is a switched reseller. A reseller who does not own facilities in Maine or any other state, or who owns facilities in another state but does not plan to use that switch to carry Maine traffic, is a switchless reseller.

² The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

2. That the Company's proposed Terms and Conditions and Rate Schedules are approved as filed on April 16, 1996;

3. That Trescom USA, Inc.'s Request for Waiver of certain sections of Chapter 280 is granted subject to the conditions and requirements stated on the attached Waiver Request form;

4. That the Company is exempt from the requirements of Chapter 210 of the Commission's Rules, except that it must report certain intrastate revenue and minutes of use information, as requested by the Commission, on or before April 1 of each year;

5. That Trescom USA, Inc. is exempt from approval requirements of 35-A M.R.S.A. §§ 707 and 708.

BY ORDER OF THE COMMISSION

Christopher P. Simpson
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attached a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.